

Bond Case Briefs

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Estate of Hudson

Supreme Court of Mississippi - June 28, 2018 - So.3d - 2018 WL 3152724

Estate of child who drowned in drainage ditch brought action against city for wrongful death. The Circuit Court granted summary judgment to city. Estate appealed.

The Supreme Court of Mississippi held that:

- City's alleged failure to comply with its ordinances and federal regulations did not give rise to cause of action, but
- Remand was warranted to permit estate to fully present its negligence claim.

Ordinances adopted by city in furtherance of its participation in National Flood Insurance Program (NFIP) did not establish private right of action against city, either in personal-injury tort or wrongful death.

The statute authorizing municipalities to construct and maintain drainage ditches does not create a right of action or establish a duty of care owed by a municipality to its inhabitants.

Remand was warranted to permit estate of child who drowned in drainage ditch to fully present its negligence claim against city; it was not possible to determine from record whether estate disregarded its claim of dangerous condition based upon its investigation into facts of case or based upon its reliance on prior decision of Supreme Court that was overruled while appeal of estate's case was pending.